

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**JOHN CHARLES MCGRIGGS, #K0205**

**PETITIONER**

**VERSUS**

**CIVIL ACTION NO. 5:08-cv-332-DCB-MTP**

**STATE OF MISSISSIPPI**

**RESPONDENT**

**ORDER OF TRANSFER PURSUANT TO 28 U.S.C. § 1631**

This matter comes before this court, sua sponte, for consideration of the transfer of this cause. The petitioner, an inmate currently incarcerated in the South Mississippi Correctional Institution, Leakesville, Mississippi, filed this request for habeas corpus relief pursuant to 28 U.S.C. § 2254 on December 16, 2008. Petitioner states that on June 27, 2006, he was convicted of rape in the Circuit Court of Warren County, Mississippi and sentenced to eighteen years in the custody of the Mississippi Department of Corrections.

The Petitioner has previously filed for habeas relief in this Court challenging the same conviction, in civil action number 5:08-cv-228-DCB-MTP. On March 30, 2009, this Court entered a final judgment which dismissed the action, with prejudice.

A Petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. Title 28 U.S.C. § 2244(b)(3)(A). The Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit. Therefore, this Court has determined that in the interest of justice, this cause should be transferred to the United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed.

*See In Re Epps*, 127 F.3d 364 (5th Cir. 1997). Accordingly, it is hereby,

ORDERED that pursuant to Title 28 U.S.C. § 1631, this petition for habeas corpus relief is transferred to the United States Court of Appeals for the Fifth Circuit.

IT IS FURTHER ORDERED that the Clerk of this Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED, this the 3rd day of June, 2009.

s/ David Bramlette  
UNITED STATES DISTRICT JUDGE